

Proposed Rule HEA 1341: The Expenditure of State Special Education Funds on Services to Nonpublic School Students with Disabilities

TITLE 511 INDIANA STATE BOARD OF EDUCATION

Emergency Rule

LSA Document #11-449(E)

DIGEST

Temporarily adds provisions to explain and implement minimum expenditure requirements for provision of special education and related services for students with disabilities who are placed by parents in nonpublic schools as required by [IC 20-43-7-9](#). Authority: [IC 4-22-2-37.1\(a\)\(37\)](#); [IC 20-43-7-9](#). Effective August 5, 2011.

SECTION 1. (a) This document applies to school corporations as defined in [IC 20-43-1-23\(a\)](#).

(b) This document does not apply to charter schools.

SECTION 2. The following definitions apply throughout this document:

- (1) "Child count" means the number of eligible pupils enrolled in special education programs on December 1 pursuant to [IC 20-43-7-1](#).**
- (2) "Department" means the department of education established by [IC 20-19-3-1](#).**
- (3) "Parentally-placed nonpublic school students with disabilities" has the meaning set forth in [IC 20-43-1-8.5](#).**
- (4) "Related services" has the meaning set forth in [511 IAC 7-32-79](#).**
- (5) "Special education" has the meaning set forth in [511 IAC 7-32-86](#).**
- (6) "State special education grant" means the amount of state funds a school corporation receives pursuant to [IC 20-43-7](#).**

SECTION 3. (a) The amount of the state special education grant that the school corporation must expend on services to the group of parentally-placed nonpublic school students with disabilities during a calendar year shall be based on the child count of parentally-placed nonpublic school students with disabilities reported on December 1 immediately preceding that calendar year.

(b) Beginning in calendar year 2012 and no later than December 31, the school corporation must, at a minimum and exclusive of federal special education funds, expend the amount determined in subsection (a) on special education and related services to parentally-placed nonpublic school students with disabilities pursuant to [511 IAC 7](#).

(c) The school corporation may expend state special education grant funds on behalf of parentally-placed nonpublic school students with disabilities to provide the following:

- (1) child find activities as defined in [IC 20-43-1-8.5](#) and [511 IAC 7-40](#), including evaluations, reevaluations, and independent educational evaluations;**
- (2) special education; and**
- (3) related services.**

(d) By December 31, 2011, the department shall establish and publish the following:

- (1) procedures and forms for school corporations to report the amount of state special education grant funds generated by and expended on services to parentally-placed nonpublic school students;**
- (2) procedures to be utilized by the department in monitoring a school corporation's compliance with this document, including the consequences for a school corporation's failure to comply with any of the following:**
 - (A) [IC 20-43-7-9](#);**
 - (B) This document; or**
 - (C) Procedures established pursuant to this document; and**
- (3) procedures for a school corporation to appeal a finding of noncompliance.**

(e) Beginning with calendar year 2012, the school corporation shall comply with the reporting requirements established by the department, and the department shall monitor the school corporation's compliance with such requirements.

(f) The department shall monitor the school corporation's actual expenditures under this document in the calendar year immediately following the calendar year in which the expenditures were required.

(g) The department shall notify the school corporation in writing of any noncompliance. The written notice shall include the following:

- (1) The nature of the noncompliance;**
- (2) The corrective action the school corporation must take;**
- (3) The deadline for the corrective action to be implemented;**
- (4) The consequences for failing to take the corrective action by the established deadline; and**
- (5) The process to appeal the department's findings.**

SECTION 4. This document expires at the earlier of the following:

- (1) The date a permanent rule adopted under [IC 4-22-2](#) supersedes or repeals this article; or**
- (2) June 30, 2012.**

Proposed Rule HEA 1341 outlines both the explanation and requirements for the provision of special education and related services for students with disabilities who are placed by parents in nonpublic schools. This rule has three main requirements:

- 1) That the Indiana Department of Education establish and publish procedures and forms outlining how and when LEAs will be monitored for compliance in regard to expending APC funds generated by nonpublic school students;**
- 2) That the Indiana Department of Education establish and publish procedures related to how LEAs will be monitored for compliance around the expenditure of APC funds generated by nonpublic school students; and**
- 3) That the Indiana Department of Education establish and publish procedures and forms related to the appeal of a finding of noncompliance in regard to the procedures tied to the monitoring of LEAs for compliance in regard to expending APC funds generated by nonpublic school students.**

The following table outlines the components related to the requirements of the proposed rule:

	Procedural Audit	Fiscal Audit
Procedures and Forms	<p>The Procedural Compliance desk audit monitoring process enables the Indiana Department of Education (IDOE) to monitor local education agency (LEA) compliance with federal and state requirements for establishing required procedures and practices. The desk audit monitoring process is used to collect relevant documentation and data to ensure proper procedures exist at the local level.</p> <p>In regard to each LEA's amount of state special education grant funds generated by and expended on services for parentally-placed nonpublic school students, the following forms must be submitted to the IDOE when an LEA is selected for participation in a Procedural Audit:</p> <ul style="list-style-type: none"> • Printout from DOE-SE showing the number of claimed nonpublic school students for the LEA. • Worksheet showing the amount of money generated by parentally-placed nonpublic school students. • Time and Effort Logs (PARs or Semi-Annual Certification) for all 	<p>Fiscal monitoring enables the IDOE to assess compliance with federal and state requirements in addition to assessing whether or not an LEA has appropriately expended funds related to students with disabilities. The onsite audit monitoring process is used to collect and review relevant documentation and data. Through this process the IDOE verifies a number of factors, including permissible expenditure of funds, appropriate documentation of funds, and other state and local fiscal requirements.</p> <p>In regard to each LEA's amount of state special education grant funds generated by and expended on services for parentally-placed nonpublic school students, the following forms must be produced when an LEA is selected for participation in a Fiscal Audit:</p> <ul style="list-style-type: none"> • Printout from DOE-SE showing number of claimed nonpublic school students for the LEA. • Narrative explaining how APC was calculated as well as the APC

	LEA staff members serving students enrolled in nonpublic schools.	<p>calculation.</p> <ul style="list-style-type: none"> • Worksheet showing the amount of money generated by students enrolled in nonpublic institutions. • Time and Effort Logs (PARs or Semi-Annual Certification) for all LEA staff members serving students enrolled in nonpublic schools.
Monitoring	<p>The Office of Special Education uses a rotating cycle for monitoring LEAs. There are four cycles, with each cycle having its own cohort group of LEAs. Each cohort is comprised of approximately ¼ of all LEAs in the state. Each cohort will rotate through the four cycles, so that by the end of the fourth year, each LEA will have had the opportunity to participate in each monitoring cycle.</p> <p>An LEA's selection for a particular cycle of monitoring is made in alignment with the selection and rotation process outlined by the Office of Special Education's general supervision process. This monitoring rotation has been created in accordance with the purposes and requirements of the Individuals with Disabilities Education Act of 2004 (IDEA 2004).</p> <p>If any LEA is issued a finding of noncompliance related to the Procedural Audit, said noncompliance must be corrected according to the procedures outlined within the Procedural Audit procedures and requirements, which are included in the Special Education page on the IDOE website.</p> <p>Uncorrected noncompliance may result in the LEA receiving additional sanctions. Additional sanctions may be influenced by the duration and severity of the noncompliance.</p>	<p>The Office of Special Education uses a rotating cycle for monitoring LEAs. There are four cycles, with each cycle having its own cohort group of LEAs. Each cohort is comprised of approximately ¼ of all LEAs in the state. Each cohort will rotate through the four cycles, so that by the end of the fourth year, each LEA will have had the opportunity to participate in each monitoring cycle.</p> <p>An LEA's selection for a particular cycle of monitoring is made in alignment with the selection and rotation process outlined by the Office of Special Education's general supervision process. This monitoring rotation has been created in accordance with the purposes and requirements of the Individuals with Disabilities Education Act of 2004 (IDEA 2004).</p> <p>If any LEA is issued a finding of noncompliance related to the Fiscal Audit, said noncompliance must be corrected according to the procedures outlined within the Fiscal Audit procedures and requirements, which are included in the Special Education page on the IDOE website.</p> <p>Uncorrected noncompliance may result in the LEA receiving additional sanctions. Additional sanctions may be influenced by the duration and severity of the noncompliance.</p>

<p>Determining Appeals</p>	<p>If an LEA would like to appeal a finding of noncompliance that appears on a Procedural Audit, a response must be received by the Office of Special Education according to the requirements outlined within the guidance for Procedural Audits.</p> <p>Local Educational Agencies (LEAs) wishing to appeal any Findings of Noncompliance may do so for the following reasons:</p> <ul style="list-style-type: none"> • The LEA is able to demonstrate an error was made on the part of the State Educational Agency (SEA) within the data itself, or in calculating the data. • The LEA is able to provide additional information related to the Finding of Noncompliance to demonstrate compliance during the period of review. • Appeals based solely on disagreement with the Finding of Noncompliance issued by the SEA will not be considered. 	<p>If an LEA would like to appeal a finding of noncompliance that appears on a Fiscal Audit, a response must be received by the Office of Special Education according to the requirements outlined within the guidance for Fiscal Audits.</p> <p>Local Educational Agencies (LEAs) wishing to appeal any Findings of Noncompliance may do so for the following reasons:</p> <ul style="list-style-type: none"> • The LEA is able to demonstrate an error was made on the part of the State Educational Agency (SEA) within the data itself, or in calculating the data. • The LEA is able to provide additional information related to the Finding of Noncompliance to demonstrate compliance during the period of review. • Appeals based solely on disagreement with the Finding of Noncompliance issued by the SEA will not be considered.
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Worksheet for Calculating the Amount of State Special Education Funding Generated by Parentally-Placed Nonpublic School Students

This worksheet may be used to calculate the amount of state special education funds generated by parentally-placed nonpublic school students.

STN	Exceptionality Category	School	Corporation	APC Level	Amount of Funding Generated
					Total: